



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 19, 1992

Mr. Jeff Hankins  
Legal Assistant, Program Division  
Legal Services, 110-C  
Texas Department of Insurance  
P. O. Box 149104  
Austin, Texas 78714-9104

OR92-658

Dear Mr. Hankins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 17378.

The Texas Department of Insurance (the "department") has received a request for information relating to two insurance companies. Specifically, the requestor seeks information concerning "rates paid by CMA [Cleveland Miller & Associates] and Worker's Staff Leasing [WSL], for personnel working at the properties" currently being audited by the Resolution Trust Corporation. In addition, the requestor seeks base rates, experience modifiers, surcharges, total payrolls for the two insurance companies, the results of certain audits, and information on any workers compensation claims denied. You claim that the department does not possess some of the requested information, *see* Open Records Decision No. 558 (1990) (governmental body not required to obtain information not in its possession), and that some of the requested information has been made available to the requestor. You have submitted to us for review, however, two "unit statistical reports" and seek to withhold them under section 3(a)(12) of the Open Records Act.<sup>1</sup>

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<sup>1</sup>You explain that section 7.83 of Title 28 of the Texas Administrative Code, which makes public certain financial statements of companies examined by the department and the results of market conduct examinations, is not applicable here because the requested documents "contain information related to operating reports, as opposed to the financial or market conduct examinations generated pursuant to the Examinations Division." Moreover, you advise us that the documents at issue here have not been deemed "completed or final" by the chief examiner.

Section 3(a)(12) of the Open Records Act excepts from required public disclosure

information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act. [Footnote deleted.]

Open Records Decision No. 158 (1977) at 5-6 held that insurance companies are included within the term "financial institutions" for purposes of section 3(a)(12).

You advise us that the two unit statistical reports submitted to us for review are operating reports based on audits filed by insurers and generated for purposes of regulating workers' compensation insurance companies. The two documents clearly fall within the section 3(a)(12) exception and may be withheld.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-658.

Yours very truly,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

CAB/GCK/lmm

Ref.: ID# 17378  
ID# 17443  
ID# 17511

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